

**CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF SPECIAL MEETING, Public Session**

March 20, 2008

Call To Order: Chairman Ross Johnson called the meeting to order at 1:05 p.m., at 428 J Street, Eighth Floor, Sacramento, California, and announced Commissioner Remy would be attending by teleconference as permitted by Government Code Section 11123. Chairman Johnson, Commissioners Timothy Hodson, Gene Huguenin, and Bob Leidigh were present, and Commissioner Ray Remy attended by teleconference.

2. Finding required for holding a Special Meeting on less than 10 day's notice pursuant to Gov. Code Section 11125.4(c).

Chairman Johnson moved that, as permitted under Government Code Section 11125.4, the Commission make the following findings in support of holding this meeting on a shorter notice period than usually required under the Bagley-Keene Open Meeting Act:

1. The Commission is a defendant in the case of *Carole Migden, et al. v. CaliforniaFair Political Practices Commission, et al.*, Federal District Court for the Eastern District of California, Case No. 2:08-CIV-486 LEW-EFB. The Commission must file an answer and any counterclaims in the case no later than March 25, 2008.
2. If the Commission misses the March 25, 2008, filing deadline or fails to file the appropriate response or take other necessary legal action by that date, the Commission's position in that litigation may be detrimentally affected.
3. On March 17, 2008, the Commission's Enforcement Division received a signed stipulation from the Plaintiffs in the *Migden v. FPPC* case that covers violations of the Political Reform Act on issues that the Plaintiffs and the Commission's Enforcement Division agree can be resolved without litigation. The stipulation, which is subject to the Commission's approval, will not resolve the issues currently before the federal court. However, the issues covered by the stipulation arise out of actions by the same committees involved in Plaintiff's federal court complaint and involve the same time periods and possibly some of the same conduct and campaign funds at issue in that case. The Commission's decision on whether to accept or reject the stipulation may bear on the Commission's actions and strategy in the federal case.
4. Failure by the Commission to immediately obtain and consider the information in the stipulation could thus have a potentially prejudicial effect on its actions in the federal case, thereby imposing a substantial hardship on the Commission in the litigation and jeopardizing the public interest.
5. As a consequence, it is necessary for the Commission to hear and decide the stipulation as soon as possible before the March 25, 2008, filing deadline in the federal action, and this may only be accomplished by holding a Commission meeting with less

than the usual 10-days' notice prior to holding the meeting, as permitted under Government Code Section 1125.4.

Moved by Chairman Johnson and seconded by Commissioner Hodson to adopt the findings as proposed.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

- 3. Proposed Stipulation, Decision and Order.** This matter involves numerous violations of the Political Reform Act (the "Act") from 2003 through 2007 by Senator Carole Migden, three of her controlled committees, Roger Sanders, and Eric Potashner.

Respondent Migden is currently a candidate for re-election to the Third State Senate District, having been originally elected to that office in 2004. Respondent Migden also served in the State Assembly from 1996 through 2002, and on the State Board of Equalization from 2002 through 2004.

Respondent Roger Sanders was the treasurer for all three committees until about March 2007. In 2001, Respondent Eric Potashner began assisting Respondent Sanders and was compensated by each of the committees for services involving the planning, organizing, or directing of activities regulated or required by the Act. Respondent Potashner performed these duties through about April 2007. Amended statements of organization filed in April 2007 disclosed Respondent Migden as the committees' new treasurer.

For purposes of settlement, the violations of the Act can be stated, according to the respondents to which they correspond, as follows:

In the Matter of Carole Migden, the Carole Migden Leadership Committee, Roger Sanders, and Eric Potashner, FPPC No. 07/441. Staff: Commission Counsel Jesse Mainardi and Accounting Specialist Luz Bonetti. Failure to Timely Terminate and to Cease Financial Activity: Violations of Section 84214 and Regulation 18404.1 (3 Counts); Failure to Timely Report Expenditures: Violation of Section 84211, subdivisions (b), (i), and (k) (1 count); and Failure to Timely Report Transfers: Violations of Section 84211, subdivisions (b), (i), and (k) (2 counts). Total Proposed Penalty: \$26,000.

In the Matter of Carole Migden, Friends of Carole Migden, Roger Sanders, and Eric Potashner, FPPC No. 07/441. Staff: Commission Counsel Jesse Mainardi and Accounting Specialist Luz Bonetti. One Bank Account Rule: Violations of Section 85201, subdivisions (a) and (e) and Regulation 18521, subdivision (a) (13 counts); Failure to Report Receipt of Transfers: Violations of Section 84211, subdivisions (a), (c), and (f) (2 counts); and Failure to Report Credit Card Vendor Information: Violations of Section 84211, subdivision (k) (7 counts). Total Proposed Penalty: \$110,000.

In the Matter of Carole Migden, Re-Elect Senator Carole Migden, Roger Sanders, and Eric Potashner, FPPC No. 07/441. Staff: Commission Counsel Jesse Mainardi and Accounting Specialist Luz Bonetti. Contributions Prior to a Statement of Intention: Violations of Section 85200 (8 counts); Failure to Timely Report Contributions: Violations of Section 84211, subdivisions (a), (c), and (f) (7 counts); Inaccurate Disclosure of Cash Payments and Receipts: Violations of Section 84211, subdivisions (a) and (e) (7 counts); Recordkeeping—Withdrawals: Violations of Section 84104 and Regulation 18401, subdivision (a) (6 counts); Recordkeeping—Expenditures: Violations of Section 84104 and Regulation 18401, subdivision (a) (9 counts); Reports Outside 90-Day Election Cycle: Violations of Section 85309, subdivision (c) (8 counts); Failure to Report Credit Card Vendor Information: Violations of Section 84211, subdivision (k) (7 counts); and Personal Use of Campaign Funds: Violations of Section 89512 (8 counts). Total Proposed Penalty: \$209,000.

In the Matter of Carole Migden and Re-Elect Senator Carole Migden, FPPC No. 07/441. Staff: Commission Counsel Jesse Mainardi and Accounting Specialist Luz Bonetti. Failure to Report Credit Card Vendor Information: Violations of Section 84211, subdivision (k) (1 count). Total Proposed Penalty: \$5,000.

Moved by Commissioner Huguenin and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of 89 counts and a \$350,000 monetary penalty.

AYES: Commissioners Remy, Huguenin, Hodson, and Chairman Johnson.

NOES: Commissioner Leidigh.

The motion passed 4-1.

Commissioner Leidigh clarified for the record that his “no” vote was because he thought the Commission should not have deviated from past practices and should have gotten all the money, and it had nothing to do with the rest of the substance of the stipulation.

Chairman Johnson noted for the record that this Stipulation differed from the typical stipulation in one other respect in that the \$100,000 that the Commission had received came from Senator Migden personally, as opposed to from her campaign funds, which was unique as well.

The Chairman complimented the Enforcement staff, Amanda Saxton, Kourtney Vaccaro, Jesse Mainardi and Luz Bonetti, for their excellent work on this matter.

Chairman Johnson again advised, although it was in the findings at the beginning of the meeting, that Senator Migden’s admission of 89 violations was separate from her illegal use of surplus campaign funds dating back to her 2000 Assembly race, which is the subject of a lawsuit the Senator has brought against the Commission in federal court.

The Chairman adjourned open session at 1:20 p.m., and announced they would immediately convene in executive session.

The Commission reconvened in open session at 1:42 p.m., and Chairman Johnson advised no reportable action was taken in executive session.

With no further business coming before the Commission, Chairman Johnson adjourned the meeting at 1:43 p.m.

Dated: April 10, 2008

Respectfully submitted,

Beth Manwaring
Commission Assistant

Approved: _____
Ross Johnson
Chairman